

1 Matthew Franklin Jaksa (CA State Bar No. 248072)  
2 HOLME ROBERTS & OWEN LLP  
3 560 Mission Street, 25<sup>th</sup> Floor  
4 San Francisco, CA 94105-2994  
5 Telephone: (415) 268-2000  
6 Facsimile: (415) 268-1999  
7 Email: matt.jaksa@hro.com

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Attorneys for Plaintiffs,  
SONY BMG MUSIC ENTERTAINMENT;  
ARISTA RECORDS LLC; INTERSCOPE  
RECORDS; BMG MUSIC; UMG RECORDINGS,  
INC.; and WARNER BROS. RECORDS INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 SONY BMG MUSIC ENTERTAINMENT, a  
14 Delaware general partnership; ARISTA  
15 RECORDS LLC, a Delaware limited liability  
16 company; INTERSCOPE RECORDS, a  
17 California general partnership; BMG MUSIC, a  
18 New York general partnership; UMG  
19 RECORDINGS, INC., a Delaware corporation;  
20 and WARNER BROS. RECORDS INC., a  
21 Delaware corporation,

22 Plaintiffs,

23 v.

24 BRITTANY RAQUEL GRAY,

25 Defendant.

26 CASE NO. C 07-04854 WDB

27 The Honorable Wayne D. Brazil

28 **EX PARTE APPLICATION TO CONTINUE  
CASE MANAGEMENT CONFERENCE  
AND [PROPOSED] ORDER**

1 Plaintiffs respectfully request that the Court continue the case management conference  
2 currently set for April 3, 2008, at 4:00 p.m. to July 10, 2008. As further explained below, Defendant  
3 Brittany Raquel Gray (“Defendant”) has not appeared in this action. Accordingly, Plaintiffs were  
4 prepared to seek entry of default and a default judgment; however, Defendant has now contacted  
5 Plaintiffs and the parties have reached a provisional settlement. Therefore, a case management  
6 conference is unnecessary at this time.

7 1. Plaintiffs initially filed the Complaint in this matter against a John Doe defendant on  
8 September 20, 2007. In order to discover the Doe defendant’s true identity, Plaintiffs also filed their  
9 *Ex Parte* Application for Leave to Take Immediate Discovery seeking the Court’s permission to  
10 serve a Rule 45 subpoena on Defendant’s Internet Service Provider (“ISP”). On September 28,  
11 2007, the Court issued an Order for Leave to Take Immediate Discovery. Plaintiffs then served a  
12 subpoena on the ISP, which thereafter identified the Defendant, Brittany Raquel Gray.

13 2. While this case was in the Doe stage, the Court issued a December 20, 2007 Order  
14 granting Plaintiffs’ previous request to continue the case management conference from January 3,  
15 2008 to the currently scheduled date.

16 3. Once the ISP identified Ms. Gray, the parties engaged in settlement discussions.  
17 However, a provisional settlement failed and was never finalized. Accordingly, on February 4,  
18 2008, Plaintiffs filed the First Amended Complaint naming Ms. Gray individually as Defendant.  
19 Defendant was served with process on February 24, 2008 by personal service.

20 4. Defendant has not answered or otherwise responded to the Complaint. Accordingly,  
21 Plaintiffs were poised to request entry of default and seek a default judgment. However, Defendant  
22 contacted Plaintiffs on March 24, 2008 (the date of this filing), and the parties have again reached a  
23 provisional settlement. Once the settlement is final, Plaintiffs will promptly file appropriate  
24 dispositional documents with the Court.

1       5.     Given the circumstances of this case, Plaintiffs respectfully request that the Court  
2 continue the case management conference from April 3, 2008, at 4:00 p.m. to July 10, 2008, or such  
3 other date as conveniences the Court.

4     Dated: March 24, 2008

HOLME ROBERTS & OWEN LLP

5  
6     By: /s/ Matthew Franklin Jaksa  
7                   MATTHEW FRANKLIN JAKSA  
8                   Attorney for Plaintiffs

9                   **[PROPOSED] ORDER**

10           Good cause having been shown:

11           **IT IS ORDERED** that the case management conference currently set for April 3, 2008, at  
12 4:00 p.m., is hereby continued to July 10, 2008.

13  
14     Dated: \_\_\_\_\_

15     By: \_\_\_\_\_  
16                   Honorable Wayne D. Brazil  
17                   United States Magistrate Judge

## PROOF OF SERVICE

STATE OF CALIFORNIA, CITY AND COUNTY OF SAN FRANCISCO

I am employed in the office of Holme Roberts & Owen in San Francisco, California. I am over the age of eighteen years and not a party to the within action. My business address is 560 Mission Street, 25th Floor, San Francisco, CA 94105.

On March 24, 2008, I served the foregoing documents described as:

**EX PARTE APPLICATION TO CONTINUE CASE MANAGEMENT CONFERENCE AND  
[PROPOSED] ORDER**

on the interested party in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

**Brittany Raquel Gray  
75 Poncetta Drive 215  
Daly City, CA 94015**

BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 24, 2008 at San Francisco, California.

Sela Grant

Della Grant